

JS - 6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11 SHAUN CHAPPELL, ) Case No. CV 14-00130 DDP (RZx)  
12 Plaintiff, )  
13 v. ) ORDER GRANTING DEFENDANTS' MOTION  
14 JOHN BARKLEY, in his ) TO DISMISS AND DENYING  
individual capacity as ) PLAINTIFF'S APPLICATION FOR ENTRY  
15 SERGEANT JOHN BARKLEY Badge ) OF JUDGEMENT AGAINST DEFENDANTS  
#32428; KENNETH CURTIS, in )  
16 his individual capacity as ) [Dkt. Nos. 6, 14 & 19]  
OFFICER KENNETH CURTIS Badge )  
17 #40858; and CHRISTOPHER )  
PHELAN, in his individual )  
18 capacity as OFFICER )  
CHRISTOPHER PHELAN Badge )  
19 #39661, )  
20 Defendants. )  
\_\_\_\_\_ )

22 Presently before the court is a Motion to Dismiss filed by  
23 Defendants John Barkley, Kenneth Curtis and Christopher Phelan.  
24 (Dkt. 6.) Also before the court is an Application for Entry of  
25 Default Judgement filed by Plaintiff in Pro Per Shaun Chappell.  
26 (Dkt. 14.) These matters are suitable for decision without oral  
27 argument. Having considered the parties' submissions, the court  
28 adopts the following order.

1    **I. Background**

2            As best the court can discern from Plaintiff's Complaint,  
 3 which includes various digressions and exhibits of unclear  
 4 relevance, Plaintiff's factual allegations are as follows:

5            On January 11, 2013, at approximately 9:20 p.m., Plaintiff was  
 6 engaged in a dispute with employees of a repossession company,  
 7 Active Adjusters, who were attempting to repossess Plaintiff's  
 8 vehicle. (Complaint ¶ 17-18.) Plaintiff locked himself inside the  
 9 vehicle and refused to vacate. (Id. ¶ 21.) The Los Angeles Police  
 10 Department ("LAPD") was called and several officers arrived on the  
 11 scene, including Defendants Barkley, Curtis, and Phelan. (Id. ¶ 22-  
 12 23, 31.) Following their arrival, Plaintiff remained locked inside  
 13 the vehicle and communicated to the officers that "he is a  
 14 sovereign man and not bound to the laws and codes of the United  
 15 States" and provided Defendant Phelan with "paperwork ...  
 16 expound[ing] on Plaintiff's status." (Id. ¶¶ 24-30.) At some point,  
 17 Defendant Barkely informed Plaintiff that he had two misdemeanor  
 18 warrants for his arrest. (Id. ¶ 33.) Plaintiff eventually vacated  
 19 the vehicle, was placed under arrest, handcuffed, placed in the  
 20 back of a patrol car, and taken to the LAPD Hollywood Division for  
 21 booking. (Id. ¶ 42-42.) Plaintiff was detained for approximately  
 22 sixteen hours. (Id. ¶ 42.)

23            On January 7, 2014, Plaintiff filed the instant action in  
 24 which, on the basis of the above allegations, he asserts that  
 25 Defendants violated several of his rights under the constitutions  
 26 of the United States and the State of California. (Id. ¶¶ 50-60.)  
 27 He alleges damages of \$110,000,000.000. (Id. ¶ 7.)

28

1     **II. Legal Standard**

2         A complaint will survive a motion to dismiss when it contains  
3 "sufficient factual matter, accepted as true, to state a claim to  
4 relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S.  
5 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544,  
6 570 (2007)). When considering a Rule 12(b)(6) motion, a court must  
7 "accept as true all allegations of material fact and must construe  
8 those facts in the light most favorable to the plaintiff." Resnick  
9 v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). Although a complaint  
10 need not include "detailed factual allegations," it must offer  
11 "more than an unadorned, the-defendant-unlawfully-harmed-me  
12 accusation." Iqbal, 556 U.S. at 678. Conclusory allegations or  
13 allegations that are no more than a statement of a legal conclusion  
14 "are not entitled to the assumption of truth." Id. at 679. Even  
15 under the liberal pleading standard of Federal Rule of Civil  
16 Procedure 8(a)(2), under which a party is only required to make a  
17 "short and plain statement of the claim showing that the pleader is  
18 entitled to relief," a "pleading that offers 'labels and  
19 conclusions' or a 'formulaic recitation of the elements of a cause  
20 of action will not do.'" Id. 678 (quoting Twombly, 550 U.S. at  
21 555). The complaint fails to contain short and plain statements of  
22 the claims. It is unclear what the central allegation of  
23 Plaintiff's complaint is, and Defendant has not been put on fair  
24 notice of the claims against him. Indeed, it is unclear how  
25 Defendant would begin to formulate a response to the Complaint,  
26 other than bring the instant motion.

27

28

1     **III. Discussion**

2         Defendant moves to dismiss the Complaint on the ground that  
3 Plaintiff has failed to state a claim upon which relief can be  
4 granted. The court agrees.

5         Plaintiff does not state in his Complaint any discernable  
6 cause of action. Plaintiff quotes the text of First, Fourth, Fifth,  
7 Seventh, Eighth, Ninth, Tenth and Fourteenth Amendments of the  
8 United States Constitution, as well as Article 1, Sections 1-3 of  
9 Constitution of the State of California. (Compl. ¶ 50-60.) However,  
10 Plaintiff does not explain in his Complaint or in his Opposition to  
11 the instant Motion to Dismiss how Defendants' conduct violated his  
12 rights under any of these constitutional provisions. Nor is any  
13 theory of relief under these provisions plausible from the court's  
14 review of the facts alleged in the Complaint.

15     **A. First Amendment**

16         To state a claim under § 1983, a plaintiff must allege: (1)  
17 the violation of a constitutional right and (2) that the violation  
18 was committed by a person under acting the color of state law. West  
19 v. Atkins, 487 U.S. 42, 48 (1988). Plaintiff does not set forth any  
20 facts to show how his First Amendment rights were violated in the  
21 course of his arrest or at any other time. Accordingly, no claim  
22 under the First Amendment is plausible.

23     **B. Fourth Amendment**

24         Plaintiff appears to assert that his Fourth Amendment rights  
25 were violated in the course of his arrest. (See Compl. ¶¶ 31-46,  
26 51.) However, no such claim is plausible.

27         Arresting officers have probable cause to execute an arrest  
28 if, at the moment of the arrest, "the facts and circumstances

1 within their knowledge and of which they had reasonably trustworthy  
2 information were sufficient to warrant a prudent man in believing  
3 that the [arrested person] had committed or was committing an  
4 offense." Beck v. Ohio, 379 U.S. 89, 91 (1964).

5 Here, Plaintiff acknowledged that at the time of his arrest  
6 there were two outstanding warrants for his arrest--indeed,  
7 Plaintiff attached both warrants to his Complaint--and that  
8 Defendants arrested him expressly pursuant to these warrants. (See  
9 id. ¶ 33, Ex. G.) As the warrants constituted probable cause for  
10 his arrest, Plaintiff has not pled a plausible Fourth Amendment  
11 violation with respect to fact of the arrest. Nor has Plaintiff  
12 alleged any facts to support a claim that Defendants violated his  
13 Fourth Amendment rights by using excessive force in carrying out  
14 the arrest.

15 **C. Fifth Amendment and Fourteenth Amendments**

16 Plaintiff has not identified any ways in which his Fifth or  
17 Fourteenth Amendment rights were violated by Defendants' conduct.  
18 To the extent Plaintiff alleges that his rights to due process  
19 under the Fourteenth Amendment were violated through the  
20 repossession of his vehicle, this claim fails because, under the  
21 facts as alleged, the repossession was executed not by police but  
22 by Active Adjusters. (See Compl. ¶¶ 19-22.) Plaintiff has not  
23 explained how Defendants were responsible for or played a role in  
24 the repossession, as their conduct under the facts alleged was  
25 limited to arresting Plaintiff on the basis of the two extant  
26 warrants.

27

28

1     **D.     Seventh Amendment**

2           The Seventh Amendment provides that a defendant is entitled to  
3 a right jury trial in certain civil cases. Plaintiff has not  
4 alleged any facts suggesting a Seventh Amendment violation nor  
5 explained why the Amendment is relevant in this case.

6     **E.     Eighth Amendment claim**

7           The Eighth Amendment prohibits "cruel and unusual  
8 punishments," as well as excessive bail and fines in certain  
9 circumstances. The Amendment does not apply where the government  
10 has not "secured a formal adjudication of guilt." Bell v. Wolfish,  
11 441 U.S. 520, 535 n.16 (1979)(internal quotations omitted).  
12 Plaintiff does not explain, nor can the court discern, any  
13 plausible manner in which Defendants' Eighth Amendment rights were  
14 violated here, where Plaintiff was arrested on two misdemeanor  
15 warrants and detained for approximately sixteen hours, but has not  
16 been convicted of any crime.

17     **F.     Ninth and Tenth Amendments**

18           The Ninth Amendment provides that "[t]he enumeration in the  
19 Constitution, of certain rights, shall not be construed to deny or  
20 disparage others retained by the people." However, the Amendment  
21 "has not been interpreted as independently securing any  
22 constitutional rights." San Diego County Gun Rights Committee v.  
23 Reno, 98 F.3d 1121, 1124-25 (9th Cir. 1996). The Tenth Amendment  
24 provides that "[t]he powers not delegated to the United States by  
25 the Constitution, nor prohibited by it to the states, are reserved  
26 to the States respectively, or to the people." Plaintiff quotes  
27 from both Amendments in his Complaint but does not explain, nor can  
28

1 the court discern, how either Amendment is relevant to this action.

2 **G. State Law Claims**

3 Plaintiff quotes from Article I, Sections 1-3 of the  
4 California Constitution, though he does not explain how his rights  
5 were violated under these provisions. Because, per the above  
6 discussion, the court has already "dismissed all claims over which  
7 it has original jurisdiction," 28 U.S.C. § 1367(c)(3), the court  
8 declines to exercise supplemental jurisdiction over the remaining  
9 state law claim.

10

11 **IV. Conclusion**

12 For the reasons stated herein, Defendant's Motion to Dismiss  
13 is GRANTED. The Court finds that Plaintiff's Application for  
14 Default Judgment is dismissed as moot.

15

16 IT IS SO ORDERED.

17

18

19 Dated: July 15, 2014



DEAD D. PREGERSON

20

United States District Judge

21

22

23

24

25

26

27

28